

Decision 05-10-032 October 27, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN
CALIFORNIA GAS COMPANY For
Authorization to Establish a Revenue Sharing
Mechanism for the Production of Native Gas.
(U 904 G)

Application 04-01-034
(Filed January 26, 2004)

OPINION EXTENDING THE STATUTORY DEADLINE

Summary

Today's decision extends by 60-days, the original 18-month deadline set forth in Public Utilities Code Section 1701.5 for resolving this proceeding. The extension is needed because of the parties' unsuccessful efforts, to date, to resolve all of the issues in this proceeding.

Procedural Background

Southern California Gas Company (SoCalGas) filed its application on January 26, 2004, and a scoping memo and ruling was issued on May 26, 2004. At page 7 of the scoping memo and ruling, we stated that "It is expected that this proceeding will be completed within 18 months of the date this scoping memo and ruling is issued...."

During the course of this proceeding, the parties have discussed among themselves the possibility of resolving this proceeding. (See June 30, 2005 ALJ Ruling, pp. 2-3.) Evidentiary hearings were originally scheduled by the scoping memo for August 24, 2004 through August 27, 2004.

On July 21, 2004, a joint motion to adopt a stipulation between SoCalGas, the Indicated Producers, California Independent Petroleum Association, and the Western States Petroleum Association was filed. A supplement to the joint motion was filed on August 20, 2004.

On August 13, 2004, SoCalGas requested that the evidentiary hearings be suspended indefinitely to allow the parties time to discuss whether the issues in the proceeding could be resolved. On August 16, 2004, the assigned Administrative Law Judge (ALJ) granted SoCalGas' request and took the evidentiary hearings off calendar. SoCalGas was to notify the ALJ of a new proposed procedural schedule following their discussions.

As part of the July 21, 2004 stipulation, SoCalGas agreed to file an application to address the terms and conditions of access to the SoCalGas system by California offshore and on-shore gas producers. This application, A.04-08-018, was filed on August 16, 2004. On October 29, 2004 and June 3, 2005, status reports about the parties' discussions in A.04-08-018 were provided to the ALJ. A prehearing conference in A.04-08-018 was held on August 17, 2005, and evidentiary hearings are scheduled to begin December 8, 2005.

An ALJ ruling was issued in this proceeding on June 30, 2005. The ruling notes that no action has been taken on the joint motion to adopt the stipulation because the "reason for the delay was to determine if parties could settle all other issues in this proceeding and the access issue [in] A.04-08-018." (June 30, 2005 ALJ Ruling, p. 5.) In order to timely resolve this proceeding within the 18-month deadline, the ruling solicited comments from the parties on whether there were any issues in this proceeding which require evidentiary hearings, to identify the issues in dispute, and to propose a schedule for resolving the issues. Several of the parties filed comments and reply comments.

On July 25, 2005, SoCalGas filed a settlement agreement in this proceeding with the Office of Ratepayer Advocates, The Utility Reform Network, and the Southern California Generation Coalition.

In the August 9, 2005 ALJ ruling, a prehearing conference was noticed for September 19, 2005 to discuss whether evidentiary hearings should be held on the July 21, 2004 stipulation and the July 25, 2005 settlement agreement.

The September 19, 2005 prehearing conference discussed whether evidentiary hearings are still needed in light of the proposed settlement and revised stipulation. Some of the parties expressed the need for evidentiary hearings, while others did not believe hearings were needed. The need for an extension decision was also discussed at the prehearing conference, which no one opposed. It was decided to convene a telephonic prehearing conference on October 21, 2005. This additional time will allow the parties to discuss what, if any, factual issues remain in dispute, to narrow or resolve the issues in dispute, and to suggest a schedule for resolving all the issues in this proceeding.

Discussion

Public Utilities Code Section 1701.5 provides that in a ratesetting proceeding, the Commission "shall resolve the issues raised in the scoping memo within 18 months of the date the scoping memo is issued, unless the commission makes a written determination that the deadline cannot be met, including findings as to the reason, and issues an order extending the deadline." Since the scoping memo was issued on May 26, 2004, the 18-month deadline expires on November 26, 2005.

This proceeding is unlikely to be completed within the 18-month deadline because it will not be known until the October 21, 2005 telephonic prehearing conference whether the issues in this proceeding can be resolved without the

need for evidentiary hearings. The delay in the processing of this proceeding has resulted because the parties requested time to resolve the issues in this proceeding and in the related proceeding of A.04-08-018. Although these efforts, to date, have been unsuccessful in resolving all of the issues in this proceeding, the resulting stipulation and settlement have narrowed the issues substantially.

In accordance with Public Utilities Code Section 1701.5, the 18-month deadline, which will expire on November 26, 2005, should be extended by an additional 60 days. This additional time will allow the parties an additional opportunity to refine the issues in this proceeding, and to allow the Commission time to resolve the issues in this proceeding.

Waiver of Comments on Draft Decision

Under Rule 77.7(f)(10) of the Commission's Rules of Practice and Procedure, the Commission may waive the otherwise-applicable 30-day period for public review and comment on a decision that extends the 18-month deadline set forth in Public Utilities Code Section 1701.5. Since no one objected to the issuance of this extension decision at the September 19, 2005 prehearing conference, it is appropriate to waive the 30-day period for public review and comment.

Findings of Fact

1. Evidentiary hearings were originally scheduled for August 24, 2004 through August 27, 2004.
2. On July 21, 2004, a joint motion to adopt a stipulation was filed between SoCalGas and three of the parties.
3. On August 16, 2004, SoCalGas' request to suspend the evidentiary hearings indefinitely was granted to allow the parties time to discuss whether the issues in the proceeding could be resolved.

4. As part of the July 21, 2004 stipulation, SoCalGas filed A.04-08-018 to address the terms and conditions of access to the SoCalGas system by California gas producers.

5. On July 25, 2005, a settlement agreement between SoCalGas and three other parties was filed.

6. No one opposed the need for an extension decision at the September 19, 2005 prehearing conference.

7. This proceeding is unlikely to be completed within the 18-month deadline.

8. No hearings have been held, and no action has been taken on the motion to adopt the stipulation and on the settlement, because the parties requested time to resolve the issues in this proceeding and in the related proceeding of A.04-08-018.

9. Although the parties, to date, have been unsuccessful in resolving all of the issues in this proceeding, the stipulation and the settlement have substantially narrowed the issues.

10. The additional time will allow the parties an additional opportunity to refine the issues in this proceeding, and to allow the Commission time to resolve the issues in this proceeding.

Conclusions of Law

1. Public Utilities Code Section 1701.5 provides that the Commission shall resolve the issues raised in the scoping memo within 18 months of the date the scoping memo is issued, unless the Commission make a written determination that the deadline cannot be met, including findings as to the reason, and issues an order extending the deadline.

2. The 18-month deadline should be extended by an additional 60 days.

3. Pursuant to Rule 77.7(f)(10), the comment period is waived.

ORDER

IT IS ORDERED that the 18-month statutory deadline in this proceeding, November 26, 2005, be extended by 60-days to January 26, 2006.

This order is effective today.

Dated October 27, 2005, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
Commissioners

Comr. Bohn recused himself
from this agenda item and was not
part of the quorum in its consideration.